

1-20-00

PTO
09/484348

00/01/10

01/18/00
JCS37 U.S. PTO

UTILITY PATENT APPLICATION TRANSMITTAL
(Only for new nonprovisional applications under 37 CFR 1.53(b))

Docket No. : 36903/SAH/C715
Inventor(s) : Stanley E. Swirhun, et al.
Title : CLOSELY-SPACED VCSEL AND PHOTODETECTOR FOR APPLICATIONS REQUIRING THEIR INDEPENDENT OPERATION
Express Mail Label No. : EL521381127US

ADDRESS TO: Assistant Commissioner for Patents
Box Patent Application
Washington, D.C. 20231

Date: January 18, 2000

1. **FEE TRANSMITTAL FORM** (Submit an original, and a duplicate for fee processing).

2. **IF A CONTINUING APPLICATION**

 X This application is a divisional of U.S. patent application No. 08/803,891, filed December 11, 1997, which is a continued prosecution application of U.S. patent application No. 08/803,891, filed February 21, 1997, which is a continuation of U.S. patent application No. 08/593,117, filed February 1, 1996. (A copy of this letter is enclosed for filing in the prior application file.)

 This application claims priority pursuant to 35 U.S.C. §119(e) and 37 CFR §1.78(a)(4), to provisional Application No. .

3. **APPLICATION COMPRISED OF**

Specification

 18 Specification, claims and Abstract (total pages)

Drawings

 8 Sheets of drawing(s) (FIGS. 1 to 8A)

Declaration and Power of Attorney

 Newly executed

 No executed declaration

 X Copy from a prior application (37 CFR 1.63(d))(for continuation and divisional)

 X Copy of January 18, 1999 Substitution of Attorney by Assignee

4. **Microfiche Computer Program** (Appendix)

5. **Nucleotide and/or Amino Acid Sequence Submission** (if applicable, all necessary)

 Computer Readable Copy

 Paper Copy (identical to computer copy)

 Statement verifying identity of above copies

6. **ALSO ENCLOSED ARE**

 X Continued Prosecution Application 08/803,891, and Preliminary Amendment to Continued Prosecution Application 08/803,891, both filed December 11, 1997.

 X Preliminary Amendment, filed January 18, 2000.

The PTO did not receive the following listed item(s) 08/803,891

00364348-01300

UTILITY PATENT APPLICATION TRANSMITTAL
(Only for new nonprovisional applications under 37 CFR 1.53(b))

Docket No.: 33723/SAH/C715

- ☐ A Petition for Extension of Time for the parent application and the required fee are enclosed as separate papers
- ☐ Small Entity Statement(s)
- ☐ Statement filed in parent application, status still proper and desired
- ☐ Copy of Statement filed in provisional application, status still proper and desired
- ☐ An Assignment of the invention with the Recordation Cover Sheet and the recordation fee are enclosed as separate papers
- ☒ This application is owned by Cielo Communications, Inc., Broomfield, CO, pursuant to an Assignment recorded at Reel 9719, Frame 0759.
- ☐ Information Disclosure Statement (IDS)/PTO-1449
- ☐ Copies of IDS Citations
- ☐ Certified copy of Priority Document(s) (*if foreign priority is claimed*)
- ☐ English Translation Document (*if applicable*)
- ☒ Return Receipt Postcard (MPEP 503) (should be specifically itemized).
- ☐ Other


7. CORRESPONDENCE ADDRESS

CHRISTIE, PARKER & HALE, LLP, P.O. BOX 7068, PASADENA, CA 91109-7068

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

By



Art Hasan

Reg. No. 41,057

626/795-9900

SAH/rvw

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REQUEST TO FILE A CONTINUED PROSECUTION APPLICATION (CPA) UNDER 37 CFR 1.53(d)

Date: December 11, 1997
Client/Matter No.: 152236-0059
Deposit Account No. 09-0946

This is a request to file a continued prosecution application (CPA) under 37 CFR 1.53(d) based on prior pending application:

EXPRESS MAIL LABEL NO.:EM139232887US

Inventor(s): Stanley E. Swirhun
Jeffrey W. Scott
Serial No.: 08/803,891
Filed: 02/21/97
Art Unit: 1107
Examiner: Joann Stewart
For: CLOSELY-SPACED VCSEL AND PHOTODETECTOR FOR APPLICATIONS REQUIRING THEIR
INDEPENDENT OPERATION

Box FWC
Hon. Commissioner of Patents and Trademarks
Washington, D. C. 20231

This is a request to file a

[X] continuation

[] divisional

[] continuation-in-part (for oath or declaration see III below) attached is an amendment for added subject matter

☐ continuing application to permit consideration of an information disclosure statement under 37 CFR 1.97.

application under the file wrapper continuing prosecution application (CPA) procedure of 37 CFR 1.53(d).

1. PARTICULARS OF PRIOR APPLICATION

A. Application Serial No.: 08/803,891

C. Date Filed: 02/21/97

B. Current Title: CLOSELY-SPACED VCSEL AND PHOTODETECTOR FOR APPLICATIONS REQUIRING THEIR INDEPENDENT OPERATION

C. Name of Current Applicant(s) and Their Current Correspondence Address:

Stanley E. Swirhun
1471 Cassin Court
Boulder, Colorado 80303

Jeffrey W. Scott
3455 Table Mesa Drive
Apt. 236L
Boulder, Colorado 80303

2. **INVENTORSHIP STATEMENT**

- (a) ☒ This CPA application discloses and claims only subject matter disclosed in the prior application the particulars of which are set forth above, and the inventor(s) named in the application filed under this request are
- ☒ the same as those named in the prior application.
- ☐ are different than those named in the prior application and it is requested that the following inventor(s) identified above for the prior application be (added/deleted):
- (b) ☐ This application discloses and claims additional disclosure by amendment and a new declaration or oath is being filed. With respect to the prior application, the particulars of which are set forth above, the inventor(s) named in the application filed through this request are
- ☐ the same as those named in the prior application.
- ☐ different than those named in the prior application and requires the (addition/deletion) of the following inventor(s):
- (c) ☐ The inventorship for all of the claims in the application filed through this request is
- ☐ the same
- ☐ not the same, and an explanation, including the ownership of the various claims at the time the last claimed invention was made, is submitted herewith.

3. **DECLARATION OR OATH**

A. Continued Prosecution Application (CPA)

☒ none required

B. Continuation-in-part

☐ attached

executed by (check all applicable items)

☐ inventor(s)

☐ legal representative of inventor(s). 37 CFR 1.42 or 1.43.

☐ joint inventor or person showing a proprietary interest for inventor who refused to sign or cannot be reached. 37 CFR 1.47;

☐ This is the petition required by 37 CFR 1.47 and the statement required by 37 CFR 1.47 is also attached.

☐ not attached

☐ Application is made by a person authorized under 37 CFR 1.41(c) on behalf of all of the above named applicant(s).

☐ Attached is a showing that the _____ is authorized.

4. **PRIORITY FROM PRIOR U.S. APPLICATION - 35 U.S.C. 120**

☒ Please amend the specification by inserting before the first line in the first sentence:

☒ --This is a continued prosecution application of copending application Serial No. 08/803,891 filed 2/21/97 which is --

☐ --This is a continuation of copending International Application Number _____ filed under the PCT on ----
_____ and which designated the U.S.--

5. **FOREIGN PRIORITY - 35 U.S.C. 119**

☐ Priority of application Serial No. 0/ _____ filed on _____ in
_____ is claimed under 35 U.S.C. 119.

☐ The certified copy has been filed on _____ in prior U.S. application Serial No. 0/ _____,
which prior application was filed on _____.

☐ certified copy will follow

6. **POWER OF ATTORNEY**

The power of attorney in the prior application names:

IRELL & MANELLA, 1800 Avenue of the Stars, Suite 900, Los Angeles, CA 90067, Robert Steinberg, Reg. No. 33,144; Bruce D. Kuyper, Reg. No. 33,937; and Gary N. Frischling, Reg. No. 35,515

- a. ☐ The power appears in the original papers in the prior application.
- b. ☒ The power does not appear in the original papers, but was filed on April 22, 1996.
- c. ☐ A new power has been executed and is attached.
- d. ☒ Please recognize as associate attorneys: Norman E. Brunell, Reg. No. 26,533; Soyeon Laub, Reg. No. 39,266; Sam Lu, Reg. No. 40,707 and Flavio Rose, Reg. No. 40,791
- e. ☒ Address all future communications to:

Dee Henderson
IRELL & MANELLA LLP
1800 Avenue of the Stars, Suite 900
Los Angeles, California 90067
(310) 277-1010

7. **ASSIGNMENT**

☒ The prior application is assigned of record to Vixel Corporation

☐ An assignment of the invention to:
is attached hereto.

A separate:

☐ "COVER SHEET FOR ASSIGNMENT (DOCUMENT) ACCOMPANYING NEW PATENT APPLICATION" or

☐ FORM PTO

is also attached.

8. **INFORMATION DISCLOSURE STATEMENT**

☐ An Information Disclosure Statement is submitted herewith.

SMALL ENTITY STATEMENT

☐ A Verified Statement claiming Small Entity Status is submitted herewith.

☒ A Verified Statement claiming Small Entity Status as an Independent Inventor was filed on 04/22/96, in conjunction with the prior application Serial No. 08/593,117, the filing date for which is 02/01/96.

PETITION FOR SUSPENSION OF PROSECUTION FOR THE TIME NECESSARY TO FILE AN AMENDMENT

☐ A Petition to Suspend Prosecution is attached hereto for the time necessary to file an Amendment in the new application filed under this request.

IDENTIFICATION OF CLAIMS FOR FURTHER PROSECUTION

The fees for filing this application are based upon:

☒ the number of claims pending upon entry of the attached preliminary amendment.

☐ entry of the heretofore unentered amendment filed under 37 CFR 1.116 in the prior application, which is hereby requested.

☐ the claims currently pending in the above-referenced prior application.

12. FEE CALCULATION (37 CFR 1.16)

		Basic Filing Fee	\$ 790.00
Total Effective Claims	<u>38</u> - 20 = <u>18</u> x \$22.00	=	<u>396.00</u>
Independent Claims	<u>3</u> - 3 = <u>0</u> x \$82.00	=	<u>0</u>
If <u>any proper</u> multiple dependent claim is present, add \$260.00			<u>0</u>
[X] Petition under 37 C.F.R. §1.136 is hereby made and the appropriate fee under 37 C.F.R. § 1.17 is filed herewith to extend the term of the pending prior application to <u>November 11, 1997</u> for which the requisite fee is (1 month \$110); (2 months \$390); (3 months \$930); (4 months \$1470).			<u>110.00</u>
[] A copy of a petition for an extension of time already filed in the prior application is attached; subtract any extension fee already paid.		-	<u>0</u>
		Subtotal	= \$ <u>1,296.00</u>
If "small entity" status box 9 is X'd, enter half (1/2) of subtotal and <u>subtract</u>		-	<u>648.00</u>
		Total filing fee enclosed	= \$ <u>648.00</u>

13. FEE PAYMENTS BEING MADE AT THIS TIME

[]	No filing fee is submitted.	
[X]	The filing fee which is attached.	\$ <u>648.00</u>
[]	Fee for recording assignment(s) if Status Box 7 is X'd (\$40.00 under 37 C.F.R. 1.21(h)).	\$ <u> </u>
[]	Petition fee for filing by other than all of the inventors or by a person not the inventor where inventor refused to sign or cannot be reached (\$130.00; 37 CFR 1.47 and 1.17(h)).	\$ <u>0</u>
[]	Processing and retention fee (\$130.00; 37 CFR 1.53(d) and 1.21(1)).	\$ <u>0</u>
Total fees enclosed:		\$ <u> </u>

14. METHOD OF FEE PAYMENT

[X]	Attached is our check in the amount of :	\$ <u>648.00</u>
[]	Charge Account No. <u>09-0946</u> in the amount of:	\$ <u> </u>
for which a duplicate of this request is attached.		

15. INSTRUCTIONS AS TO OVERPAYMENT

☒ Credit Deposit Account No. 09-0946

☐ Refund

16. ABANDONMENT OF PRIOR APPLICATION

Please do not abandon the prior application until any petitions for an extension of time or to revive that application have been granted, or until the new application hereby requested has been granted a filing date, such that the prior application is copending with the new application filed under this request. Subject to the foregoing, please append the words --now abandoned-- to the amendment to the specification set forth in paragraph 4 above.

17. DEPOSIT ACCOUNT AUTHORIZATION

The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any missing or insufficient fee(s) filed or asserted to be filed or which should have been filed herewith or with any paper filed hereafter, and which may be required under Rules 16-18 (missing or insufficient fee only) now or hereafter relative to this application and the resulting Official document under Rule 20, or credit any overpayment, to our deposit Account No. 09-0946 for which purpose a duplicate copy of this sheet is attached. This statement does not authorize charge of the issue fee until/unless an issue fee transmittal form is filed.

Respectfully submitted,

12/11/97
Date

Norman E. Brunell
Norman E. Brunell
Reg. No. 26,533